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F14a



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APPEAL STAFF REPORT - SUBSTANTIAL ISSUE DETERMINATION

Appeal numberA-3-SCO-03-071, Live Oak Library
Applicant.....Santa Cruz County Redevelopment Agency
AppellantsMary Searl & Steve Barlow; Charles Paulden
Local governmentSanta Cruz County
Local decisionApproved with conditions (June 6, 2003)
Project locationExisting Live Oak Library site at 2380 Portola Drive adjacent to Corcoran Lagoon in the unincorporated Live Oak area of Santa Cruz County.
Project description.....Demolish the existing Live Oak Library and replace it with a new library building and related amenities. Project includes replacement of the existing one-story library with a one and two-story craftsman style library structure, realigned parking lot, and enhanced water quality treatment and filtration system.
File documents.....Santa Cruz County Certified Local Coastal Program (LCP); Santa Cruz County CDP Application File 03-0002; Coastal Commission CDP Application File 3-03-088 (Live Oak Library Corcoran Lagoon Restoration).
Staff recommendation ...No Substantial Issue

Summary of staff recommendation: The County approved a project to demolish the existing one-story, 17-foot tall, roughly 6,000 square foot library (5,000 square foot building and 1,000 square foot enclosed patio) and replace it with a 13,500 square foot structure in about double the existing footprint in a mix of one and two stories up to 28 feet tall adjacent to Corcoran Lagoon in the Live Oak area of Santa Cruz County. The approved project also includes reconfigured and improved parking areas, walkways, landscaping, and water quality filtration and treatment. The approved project retains the informal public path along the Lagoon's edge, and includes viewing areas and interpretive panels along the path.

The Appellants generally contend that the approved project is inconsistent with the land use, sensitive habitat, view, and recreation policies of the LCP.

The project raises some issues due to the fact that it is to be constructed adjacent to the significant habitat and viewshed of Corcoran Lagoon. However, the Library site is located on pre-Coastal Act fill



California Coastal Commission

October 2003 Meeting in San Diego

Staff: D.Carl Approved by:

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that is not ESHA and that has been historically developed with urban uses for some time, including the existing Library development itself. The approved project does intensify the use somewhat by providing more than double the existing Library square footage. The increased square footage will lead to an increased intensity of use (including the second story elements that are more visible from within the Lagoon, a portion of the building extending closer to it, and any associated additional noise, lights, and activity) at this location that does raise some habitat questions. However, the increased use intensity will be relatively small over that that exists currently, and it is not expected to significantly disrupt the Lagoon habitat. In addition, the approved project includes several elements that will improve the adjacent Lagoon habitat. For example, a “treatment train” for site runoff using a biofiltration swale area and an advanced engineered filtration device that will serve to ensure runoff leaving the site (and entering the Lagoon) is filtered and treated to remove typical runoff pollutants. Also related to the project, but being heard separately at the October Commission hearing because it is located within the Commission’s retained permitting jurisdiction (application number 3-03-088, item number F15d), is a restoration project for the Lagoon edge adjacent to the site that will remove invasive and non-native plants and replace them with non-invasive native Lagoon species. Existing chemically treated railroad ties on the site (historically used to define parking areas) will be removed, and thus any existing leaching of chemicals from these ties during storm events will be eliminated.

In terms of views, additional public view blockage as seen from Portola Drive will be extremely minimal and insignificant. Public views of the ocean horizon will not be blocked. Although the additional massing and formalized site design will incrementally contribute a more urban quality into the existing Lagoon viewshed aesthetic, it is important to note that the project site is already within an urban context, with large residential structures ringing much of the Lagoon and located directly inland of the site opposite Portola Drive. To the west is the KSCO radio station and its large, tall transmission towers that extend out into the middle of the lagoon proper. In any case, and in this context, the project’s generally low-slung architecture, along with the site landscaping, the retained eucalyptus grove, and the Lagoon restoration, will help to soften viewshed impacts. The design is coastal craftsman in feel, and includes a number of varied structural offsets and projections, and a second story set back from the first, that together help to reduce the perception of mass. Overall, the project presents an attractive design that will blend with the existing character of the site and the surrounding built and natural environment.

Finally, the project retains the existing public footpath along the Lagoon edge, and incorporates a viewing area with interpretive panels into it.

Overall, although the Appellants raise some pertinent issues regarding Lagoon habitat and viewshed protection, these issues do not rise to the level of a substantial issue in terms of this project’s conformance with the certified LCP. The project is an attractive public project that strikes an appropriate balance between its development intensity and its viewshed location near the Lagoon. Not insignificantly, the project provides an opportunity to enhance public awareness of the Lagoon and similar coastal resources by bringing the public to it in an attractive setting containing amenities and interpretive information. Many of these folks are either persons who might not otherwise experience such wetland interpretation, and/or are younger children to whom such an experience can help form their appreciation and continued support for protecting such resources.



Thus, Staff recommends that the Commission find that no substantial issue exists with respect to this project's conformance with the certified LCP, and that the Commission decline to take jurisdiction over the coastal development permit for the project.

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1. Appeal of Santa Cruz County Decision

A. Santa Cruz County Action

Santa Cruz County approved this proposed project subject to multiple conditions on June 6, 2003 (see exhibit C for the County's adopted staff report, findings and conditions on the project). The County's approval was by the Zoning Administrator. The Zoning Administrator's approval was not appealed locally (i.e., to the Planning Commission or to the Board of Supervisors).¹

Notice of the Zoning Administrator's action on the coastal development permit (CDP) was received in the Coastal Commission's Central Coast District Office on June 26, 2003. The Coastal Commission's ten-working day appeal period for this action began on June 27, 2003 and concluded at 5pm on July 11, 2003. Three separate appeals were received during the appeal period, from (1) Mary Searl & Steve Barlow; (2) Charles Paulden; and (3) Patricia Matejcek for "Harbor to the Hook." Subsequently, it was determined that neither Patricia Matejcek nor the Harbor to the Hook organization had standing to make the appeal.² Thus, there are two valid appeals (see below).³

B. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is: (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable

¹ Normally local appeals must be exhausted before an appeal can be made to the Coastal Commission. In Santa Cruz County's case, the appeals process is that Zoning Administrator decisions can be appealed to the Planning Commission, and Planning Commission decisions can be appealed to the Board of Supervisors (and the Board can also independently elevate an item to the Board for consideration). However, because Santa Cruz County charges a fee for local coastal permit appeals, aggrieved parties can appeal lower decisions directly to the Commission. Since the appeal in this case is of a Zoning Administrator decision, the Appellants have availed themselves of the direct appeal route.

² To have standing to make an appeal, one must be an "aggrieved person" where "aggrieved person" means any person who, in person or through a representative, appeared at a Santa Cruz County public hearing in connection with the action, or who by other appropriate means prior to a hearing, informed the County of the nature of his or her concerns, or who for good cause was unable to do either (Coastal Act Sections 30625 and 30801). In this case, neither Ms. Matejcek nor the "Harbor to the Hook" organization took part in the local permitting process for this item leading up to and including the County decision since appealed. As a result, they do not qualify as "aggrieved" with standing to submit an appeal in this matter.

³ Note that Ms. Matejcek's appeal raised similar issues as Mr. Paulden's appeal, and in fact included identical LCP citation sections. Thus, even though Ms. Matejcek does not have standing to make the appeal, her issues are addressed through Mr. Paulden's appeal.



because it is located adjacent to Corcoran Lagoon and it is not the principally permitted use for this site.⁴

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is so located and thus this additional finding would need to be made in a de novo review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

C. Appellants' Contentions

Appellants Mary Searl and Steve Barlow

Ms. Searl and Mr. Barlow's appeal contends that the project will erode neighborhood views, and that there are less “environmentally and residentially disturbing” sites available. Please see exhibit D for their complete appeal document.

Appellant Charles Paulden

Mr. Paulden's appeal generally contends that the approved project is inconsistent with LCP policies protecting Corcoran Lagoon, coastal views, open space, park and recreation land, and that it is inappropriately sited at this location for these reasons and because it is not consistent with LCP land use priorities. Mr. Paulden has organized his appeal contentions into five general areas: general LCP issues (use priorities, public service adequacy, etc.), biological resources, views, open space, and recreation. Please see exhibit E for the Mr. Paulden's complete appeal document.

Summary

Together, the appeal contentions can be organized broadly into four main issue areas: land use, environmentally sensitive habitat areas (ESHAs), views, and recreation. The analysis that follows is likewise organized on these four areas. There is obviously some overlap between these broad areas, and

⁴ Note that community facilities, including libraries, are principally permitted uses in the subject C-1 zone district only if they are less than 2,000 square feet. Projects larger than that must be reviewed at level 5 (i.e., Zoning Administrator) or above. The LCP is structured to correlate reviews at a level 5 or above as conditional uses.



some of the Appellant-identified categories areas are inherent to each (e.g., Mr. Paulden's open space concerns also relate to protection of the lagoon and views). Such overlap is acknowledged and analyzed below. In general, Ms. Searl and Mr. Barlow's appeal contentions are included in those of Mr. Paulden, except for their additional contention regarding the impact of the project on the adjacent residences.

2. Staff Recommendation on Substantial Issue

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the County's decision in this matter would be final (conversely, a finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action).

Motion. I move that the Commission determine that Appeal Number A-3-SCO-03-071 raises **no** substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.

Staff Recommendation of No Substantial Issue. Staff recommends a **yes** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find No Substantial Issue. The Commission hereby finds that Appeal Number A-3-SCO-03-071 does not present a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Description

A. Project Location

The proposed development is located adjacent to Corcoran Lagoon in the unincorporated Live Oak area of Santa Cruz County (see exhibit A). Corcoran Lagoon is one of a series of coastal lagoons in Live Oak that have been hemmed in over time by the increasingly dense development, primarily residential, of coastal Live Oak. Corcoran Lagoon extends from the beach shoreline under a bridge at East Cliff Drive (i.e., the first through public road) and inland to Portola Drive. The library site is on the inland side of



Corcoran and is accessed off of Portola Drive. Residential development surrounds Corcoran, and a radio station, KSCO, is located due west – also directly adjacent to the Lagoon (and including 3 tall radio transmission towers within the Lagoon itself).

The Library site is located on a roughly 4 acre parcel of which approximately 2½ acres is occupied by the Lagoon itself and the remainder is pre-Coastal Act fill that has historically been developed with building and parking areas. The fill area is currently occupied by a roughly 6,000 square foot library building (5,000 square foot building and 1,000 square foot enclosed patio) nearest Portola with a parking lot on the Lagoon-side of the building. The building is one-story and 17-foot tall. Prior to the existing library use, the building and site were used as a nightclub, with parking occupying the remainder of the site between the building and the Lagoon. A small fence rings the site on the Lagoon side roughly demarking the boundary between the disturbed area of the site and the Lagoon portion of the site. The area inland of the fence line includes a graveled weedy area used historically for overflow parking. A tall eucalyptus grove runs along the edge of the lagoon along the fence line on the southeast of the site. A small vegetated swale currently collects runoff prior to directing it to the Lagoon.

See exhibit B for a site plan with site characteristics noted.

B. County Approved Project

The County approval allows the Applicant to demolish the existing library building and replace it in an expanded footprint (roughly double) with a 13,500 square foot structure in a mix of one and two stories up to 28 feet tall at its maximum. The structure would be finished with fiber cement board and bat upper stories, stucco lower story, and a series of wood gables and pedestals designed to evoke a coastal-craftsman style. The approved project also includes reconfigured and improved parking areas, walkways, and landscaping. A portion of the existing graveled weedy area would be combined with the area of the existing vegetated swale to create a larger bio-filtration area for site runoff that would itself then filter through a new engineered filtration device prior to entering the Lagoon. The area immediately under the eucalyptus grove canopy would be left undisturbed since the eucalyptus duff and feeder roots have acclimated in this area (and removal would adversely affect the tree grove). The existing wooden split rail fence would be replaced in kind and in the same location. Existing chemically treated railroad ties (used historically to define parking areas) would be removed and disposed of properly offsite. The approved project retains the informal public path along the Lagoon's edge, and adds a viewing area and interpretive panels along it.

See exhibit B for County-approved plans (including a photo-simulation)⁵ and exhibit C for the adopted County staff report, findings, and conditions approving the project.

⁵ Note that not all approved plan sheets are shown in exhibit B. Rather, exhibit B includes an existing and proposed site plan, and elevations of the proposed Library building.



4. Substantial Issue Findings

The Appellants raise issues regarding the project's conformance with the land use, ESHA, viewshed, and recreation policies of the LCP (see exhibits D and E for the complete appeal documents). The Appellants exclusively cite LCP Land Use Plan (LUP) policies. The LCP policies identified by the Appellants in each issue area are identified below,⁶ followed by a analysis of the project's conformance with the cited policies in relation to the appeal reasons. As detailed below, the appeals do not raise a substantial issue with respect to the project's conformance with the Santa Cruz County LCP.

A. Land Use

1. LUP Chapter 2 ("Land Use") Policies Cited by Appellants

LUP Policy 2.1.4 Siting of New Development. *Locate new residential, commercial, or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.*

LUP Policy 2.2.3 Reservation of Public Works Capacities for Coastal Priority Uses. *In the Coastal Zone, reserve capacity in existing or planned public works facilities for Coastal Priority Uses. For a description of those uses, see sections 2.22 and 2.23.*

LUP Policy 2.21.1(a) Public Facility/Institutional Land Use Designation. *Utilize a Public Facility land use designation on the General Plan and LCP Land Use Maps to designate public and quasi-public facilities uses and integrally related public facility support facilities. Recognize an intensity of use for existing public and private institutions at existing levels of development: Permit new development or increases in intensity of use for public institutions and private non-residential public facilities uses where consistent with infrastructure constraints, and scenic, natural and agricultural resource protection.*

LUP Objective 2.22 Coastal Dependent Development. *To ensure priority for coastal-dependent and coastal-related development over other development on the coast.*

LUP Policy 2.22.1 Priority of Uses within the Coastal Zone. *Maintain a hierarchy of land use priorities within the Coastal Zone:*

First Priority: Agriculture and coastal-dependent industry

Second Priority: Recreation, including public parks; visitor serving commercial uses; and coastal recreation facilities.

Third Priority: Private residential, general industrial, and general commercial uses.

⁶ Note that the Appellants cite some policies as LCP policies that are General Plan policies, and not LCP policies, including General Plan Policy 2.21.5, General Plan Policy 2.21.7, General Plan Objective 7.15, and General Plan Policy 7.15.1. These policies are not included here because they have no bearing on the LCP consistency question.



LUP Policy 2.22.2 Maintaining Priority Uses. Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.

LUP Policy 2.23.2 Designation of Priority Sites. Reserve the sites listed in Figure 2-5 for coastal priority uses as indicated. Apply use designations, densities, development standards, access, and circulation standards as indicated.

LUP Policy 2.23.3 Master Plan Requirements for Priority Sites. Require a master plan for all priority sites, with an integrated design providing for full utilization of the site and a phasing program based on the availability of infrastructure and projected demand. Where priority use sites include more than one parcel, the master plan for any portion shall address the issues of site utilization, circulation, infrastructure improvements, and landscaping, design and use compatibility for the remainder of the designated priority use site. The Master Plan shall be reviewed as part of the development permit approval for the priority site.

That portion of LCP Figure 2-5 applicable to the Live Oak area (“Coastal Priority Sites – Live Oak”) designates the site as the Corcoran Lagoon Overlook Coastal Priority Site. This site is subject to the following special development standards:

LUP Coastal Priority Site – Corcoran Lagoon Overlook

Designated Priority Use: Preferred Use:

- 1) *Coastal wetland protection and development of coastal access and recreation facilities, potentially including a coastal wetlands interpretive center.*
- 2) *“Neighborhood Commercial”: Development of visitor serving commercial uses or public uses or offices.*

Special Development Standards: Site improvement shall include protection and restoration of the Corcoran Lagoon wetland and adjacent riparian area.

Circulation and Public Access Requirements: Commercial development of the site shall improve and dedicate public access facilities including a pathway, seating, and wildlife observation areas along the lagoon frontage.

2. Consistency Analysis

The Appellants’ contentions in this issue area are generally that the Library use is inappropriate at this location, primarily because of the Lagoon proximity but also because it isn’t a priority use, and isn’t a coastal dependent use.

Priority of Use for this Site

Although the LCP establishes a hierarchy of use priorities, and prohibits conversion of a higher to a lesser priority use (LUP Policies 2.22.1, and 2.22.2), it does not specifically require that development be one of the higher priority uses (such as a coastal dependent use; LUP Objective 2.22.). Rather, the LCP asks that decision makers take the use priorities into account with new development, and specifically



encourages coastal dependent development. When a change in use is proposed, the LCP prohibits a conversion to a lower priority use. In this case, the use is currently a public library, and the project would not change this. Public libraries (and public facility uses in general) are not identified in the LCP's use hierarchy. In any event, maintaining the library use, and not changing it to a coastal dependent use, is allowed by the cited policies, and does not conflict with them.

In addition, the LCP identifies certain sites as Coastal Priority Sites within the County's coastal zone. The library site is identified as the "Corcoran Lagoon Overlook Coastal Priority Site" per LUP Policy 2.23.2 and LUP Figure 2-5. Designated priority uses for this site include access and recreation facilities, potentially interpretive facilities, public uses, and even offices (see above). The Appellants contend that a library is inconsistent with this section. However, LUP Figure 2-5 clearly identifies public uses (such as a library) as a "designated priority use." The approved Library will also include an access trail (along the Lagoon), and interpretative panel along the trail. These additions to the project help to address the interpretive and access designations of LUP Figure 2-5 (although not required by the LCP). The Library itself is one large interpretive facility inasmuch as it provides an opportunity to enhance public awareness of the Lagoon and similar coastal resources by bringing the public to it in an attractive setting with amenities and interpretive information. Many of these folks are either persons who might not otherwise experience such wetland interpretation, and/or are younger children to whom such an experience can help form their appreciation and continued support for protecting such resources. The project is therefore consistent with the cited policies.

LUP Policy 2.23.3 requires that a master plan be prepared for development of priority sites. The project does not include the required master plan, and this raises an LCP issue. However, the approved project addresses the whole of the site and satisfies the intent of the master plan requirements. In other words, although a "master plan" was not created, the approved project is the functional equivalent in this case. As a result, the lack of a master plan does not in this case rise to the level of a substantial issue in terms of this project's conformance with the LCP.

Adequate Public Services

The LCP directs development to existing developed areas with adequate public services, and where it will not have significant adverse effects on resources (LUP Policy 2.1.4). The Library is within the developed Live Oak area within the LCP's urban service line. The Library is currently served by all necessary public services and these are adequate to serve the proposed larger library. The project is, therefore, consistent with the first part of LUP Policy 2.1.4.

Likewise, there is no indication that there are any public works capacity problems that would require capacity to be reserved for a higher priority use (LUP Policy 2.2.3). In addition, LUP Policy 2.2.3 refers to the Coastal Priority Uses of LUP Sections 2.22 and 2.23. As seen above, the library use is an identified priority use for this site (per LUP Section 2.23 and its identification as a "Designated Priority Use" for the "Corcoran Lagoon Overlook Coastal Priority Site" (LUP Figure 2-5)). Thus, even were there to be public works capacity issues, the approved project is a priority for limited public works capacities. The project is consistent with LUP Policy 2.2.3.



The Appellants also cite LUP Policy 2.21.1(a) that has similar requirements for public service adequacy in relation to development. This LUP Section is not explicitly applicable inasmuch as it is directed to property designated for public facility and institutional land uses, and this property is not so designated. A more broad reading of the section, though, is that it applies to public facilities such as libraries. In any case, with this more inclusive reading, and for the same reasons stated above, there is adequate infrastructure to serve the project and it is not inconsistent with this policy.

Resource Impacts

The second part of LUP Policy 2.1.4 requires siting new development where it will not have “significant adverse effects” on resources.⁷ LUP Policy 2.21.1(a) similarly requires the project to be consistent with natural resource protection. The project raises some concern in this respect due to the fact that it is to be constructed adjacent to the significant habitat of Corcoran Lagoon. However, the Library site is (and has been historically) developed with urban uses for some time, including the existing Library development itself. The approved project does intensify the use somewhat, and this raises some potential habitat concerns, but it is not expected to lead to significant adverse effects over that that exist now (see ESHA section that follows for more detail on this point). The project also includes components that should have beneficial impacts on the Lagoon environment, including the enhanced water quality filtration, removal of old chemically treated railroad ties, and restoration of the Lagoon edge vegetation. The project retains the existing public footpath along the Lagoon edge, and incorporates a viewing area with interpretive panels into it. See also ESHA section that follows for more detail.

The other resource issue identified by the Appellants to which LUP Policies 2.1.4 and 2.21.1(a) apply is scenic viewshed protection.⁸ In this case, and due to its inland location (again, see exhibit A), the viewshed involved is primarily the inland Lagoon viewshed, and not the immediate shoreline beach viewshed.⁹ The new building will be about 55 feet longer than the existing 135 foot building frontage along Portola Drive and this will lead to some additional blockage of public views (from Portola). This public view blockage will be nearly zero because the area where the building would be extended is already heavily vegetated and provides nearly no through views. The only public ocean view across the library site is provided from westbound Portola Drive as one passes the Library building – this view would be unaffected by the project. The new second story will also block some private residential views. However, the inland residences are located up slope of the library at a higher elevation, and these residential units themselves are 2 and 3 stories high, so additional private view blockage would be relatively small. The somewhat larger building will also be visible in other public views (such as from East Cliff Drive). However, the additional building size is insignificant within the context of existing on-site development and surrounding development, including the large residential structures just inland of the site, and the radio station and towers protruding into the Lagoon area. The project would remain relatively low-slung, and replace the existing structure with an attractive coastal craftsman style

⁷ For more detail on ESHA issues, see “ESHA” section that follows.

⁸ For more detail on view issues, see “Views” section that follows.

⁹ That is not to say that the site is not visible from the beach, because there are areas along the beach where one could see the site. Rather, the site is not prominent in the beach viewshed because it is located well inland of the beach (about a quarter of a mile) and there are intervening landforms (on either side of East Cliff Drive) that constrict such view corridors.



building. Additional public view blockage as seen from Portola Drive will be minimal and insignificant. This is due to the fact that the existing Library building already blocks the view from Portola (and has for some time), and the additional building element extends only slightly towards the east into a view corridor that is already somewhat blocked by existing vegetation and the existing eucalyptus grove. Improvements to the remainder the site, and the restoration of the Lagoon edge, will serve to offset any impacts due to increasing the size of the Library (see also viewshed section that follows for more detail).

The project does not raise a substantial issue with the cited policies.

B. ESHA

1. LUP Chapter 5 ("Conservation and Open Space") Policies Cited by Appellants

LUP Objective 5.1 Biological Diversity. To maintain the biological diversity of the County through an integrated program of open space acquisition and protection, identification and protection of plant habitat and wildlife corridors and habitats, low-intensity and resource compatible land uses in sensitive habitats and mitigations on projects and resource extraction to reduce impacts on plant and animal life.

LUP Policy 5.1.1 Sensitive Habitat Designation. Designate the following areas as sensitive habitats: (a) areas shown on the County General Plan and LCP Resources and Constraints Maps; (b) any undesignated areas which meet the criteria (policy 5.1.2) and which are identified through the biotic review process or other means; and (c) areas of biotic concern as shown on the Resources and Constraints Maps which contain concentrations of rare, endangered, threatened or unique species.

LUP Policy 5.1.2 Definition of Sensitive Habitat. An area is defined as a sensitive habitat if it meets one or more of the following criteria: (a) Areas of special biological significance as identified by the State Water Resources Control Board. (b) Areas which provide habitat for locally unique biotic species/communities, including coastal scrub, maritime chaparral, native rhododendrons and associated Elkgrass, mapped grasslands in the coastal zone and sand parkland; and Special Forests including San Andreas Live Oak Woodlands, Valley Oak, Santa Cruz Cypress, indigenous Ponderosa Pine, indigenous Monterey Pine and ancient forests. (c) Areas adjacent to essential habitats of rare, endangered or threatened species as defined in (e) and (f) below. (d) Areas which provide habitat for Species of Special Concern as listed by the California Department of Fish and Game in the Special Animals list, Natural Diversity Database. (e) Areas which provide habitat for rare or endangered species which meet the definition of Section 15380 of the California Environmental Quality Act guidelines. (f) Areas which provide habitat for rare, endangered or threatened species as designated by the State Fish and Game Commission, United States Fish and Wildlife Service or California Native Plant Society. (g) Nearshore reefs, rocky intertidal areas, seacaves, islets, offshore rocks, kelp beds, marine mammal hauling grounds, sandy beaches, shorebird roosting, resting and nesting areas,



cliff nesting areas and marine, wildlife or educational/research reserves. (h) Dune plant habitats. (i) All lakes, wetlands, estuaries, lagoons, streams and rivers. (j) Riparian corridors.

LUP Policy 5.1.3 Environmentally Sensitive Habitats. *Designate the areas described in 5.1.2 (d) through (j) as Environmentally Sensitive Habitats per the California Coastal Act and allow only uses dependent on such resources in these habitats within the Coastal Zone unless other uses are: (a) consistent with sensitive habitat protection policies and serve a specific purpose beneficial to the public; (b) it is determined through environmental review that any adverse impacts on the resource will be completely mitigated and that there is no feasible less-damaging alternative; and (c) legally necessary to allow a reasonable economic use of the land, and there is no feasible less-damaging alternative.*

LUP Policy 5.1.6 Development Within Sensitive Habitats. *Sensitive habitats shall be protected against any significant disruption of habitat values; and any proposed development within or adjacent to these areas must maintain or enhance the functional capacity of the habitat. Reduce in scale, redesign, or, if no other alternative exists, deny any project which cannot sufficiently mitigate significant adverse impacts on sensitive habitats unless approval of a project is legally necessary to allow a reasonable use of the land.*

LUP Objective 5.2 Riparian Corridors and Wetlands. *To preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance and storage of flood waters.*

LUP Policy 5.2.7 Compatible Uses With Riparian Corridors. *Allow compatible uses in and adjacent to riparian corridors that do not impair or degrade the riparian plant and animal systems, or water supply values, such as non-motorized recreation and pedestrian trails, parks, interpretive facilities and fishing facilities. Allow development in these areas only in conjunction with approval of a riparian exception.*

LUP Policy 5.2.10 Development in Wetland Drainage Basins. *Require development projects in wetland drainage basins to include drainage facilities or Best Management Practices (BMPs) which will maintain surface runoff patterns and water quality, unless a wetland management plan specifies otherwise, and minimize erosion, sedimentation, and introduction of pollutants.*

LUP Objective 5.4 Monterey Bay and Coastal Water Quality. *To improve the water quality of Monterey Bay and other Santa Cruz County coastal waters by supporting and/or requiring the best management practices for the control and treatment of urban run-off and wastewater discharges in order to maintain local, state and national water quality standards, protect County residents from health hazards of water pollution, protect the County's sensitive marine habitats and prevent the degradation of the scenic character of the region.*

LUP Policy 5.4.14 Water Pollution from Urban Runoff. *Review proposed development projects for their potential to contribute to water pollution via increased storm water runoff. Utilize*



erosion control measures, on-site detention and other appropriate storm water best management practices to reduce pollution from urban runoff.

LUP Objective 5.7 Maintaining Surface Water Quality. *To protect and enhance surface water quality in the County's streams, coastal lagoons and marshes by establishing best management practices on adjacent land uses.*

LUP Objective 5.11 Open Space Preservation. *To identify and preserve in open space uses those areas which are not suited to development due to the presence of natural resource values or physical development hazards.*

LUP Policy 5.11.1(a) and (b) Designation of Urban Open Space Lands (O-U). *Designate Urban Open Space (O-U) areas on the General Plan and LCP Land Use Maps to identify those lands within the Urban Services Line and Rural Services Line which are not appropriate for development due to the presence of one or more of the following resources or constraints: (a) Coastal bluffs and beaches; (b) Coastal lagoons, wetlands and marshes...*

2. Consistency Analysis

The Appellants contend that the project is located within ESHA, and is not adequately protective of Corcoran Lagoon.

Development In ESHA

The Appellants indicate that the project is located within ESHA inconsistent with the LCP. This is inaccurate. As described above (in the project location section), the site is completely developed with a library building, parking lot and landscaping inland of the existing fence line. The high water mark of the Lagoon is approximately 25 feet or so on the lagoon side of the fence line. Everything inland of the fence line has been disturbed by existing and past development and is not ESHA. In other words, the fence line roughly demarks the boundary between the disturbed area of the site and the Lagoon and the Lagoon upland/buffer portion of the site. Since all development approved is within the fence line, there is no development in ESHA.

Impact of Development Adjacent to ESHA

The Appellants indicate that the project will not maintain or enhance Corcoran Lagoon as required by LUP Policy 5.1.6 for development adjacent to ESHA. Similarly, the Appellants contend that the use is incompatible with wetland and riparian corridor protection (LUP Objective 5.2 and Policy 5.2.7).

The project raises some concern in this respect due to the significance of the Corcoran Lagoon habitat and its LCP status as a result. Over time, the lagoons in coastal Live Oak have been increasingly hemmed in by a rising tide of urban development, and Corcoran lagoon is no different in this respect. It is appropriate that projects, and particularly public improvement projects, be carefully scrutinized and designed in this context. That said, the other context relevant to this impact discussion in this case is the fact that the Library fill site is (and has been historically) developed with urban uses for at least 45



years, including most recently the existing Library development itself.

The approved project does intensify the use by increasing the square footage of the main structure (roughly doubling the existing square footage). Although the number of users isn't expected to increase significantly, and the amount of parking spaces provided is roughly the same with the existing configuration as with the new one, the increased intensity of use (including the second story elements that are more visible from within the Lagoon, the portion of the building extending closer to it by about 50 feet, and any associated additional noise, lights, and activity) does raise some potential habitat concerns. However, the additional development is not expected to lead to significant adverse effects over that that exists now. The project also includes components that should have beneficial impacts on the Lagoon environment, and that should serve to offset any impacts due to the increased intensity of use. Habitat enhancements include the enhanced water quality filtration system (see also below), the removal of the old chemically treated railroad ties (that can leach into the Lagoon currently), and the removal of invasive plants and the restoration of the native Lagoon edge vegetation adjacent to the site.

In terms of the appeal contention that the use is incompatible per LUP Policy 5.2.7, that LUP section provides some criteria of what would be compatible uses, namely uses "that do not impair or degrade the riparian plant and animal systems, or water supply values." As described above (and also below in terms of water quality), the riparian plant system will be enhanced by virtue of the wetland species restoration and the water quality filtration elements of the project. Any additional impacts from the project on animals in the riparian and wetland area (as described above), will be offset by the beneficial components of the project. Because of this, the project will not "impair or degrade" these resources and can be found a compatible use per LUP Policy 5.2.7.

Overall, the project will at the least maintain, and should enhance, the Lagoon habitat and is thus consistent with the cited ESHA policies.

Water Quality

The Appellants contend that although the proposed water quality treatment system proposed is better than the existing system, it is not adequate to protect water quality and should be made better by requiring pervious pavement. The LCP sections cited by the Appellants in this regard are LUP Objective 5.4 and Policies 5.2.10, 5.4.14, and 5.7 (see above). The water quality "treatment train" developed for this project allows runoff to percolate into the substantial pervious areas of the site. Runoff that collects on impervious areas of the site (i.e., the parking lot, walkways, and roofs) is all directed through a vegetated bio-filtration swale (sized and designed using the state stormwater BMP handbook). The swale allows for filtration, absorption and infiltration of the pollutants carried by the runoff.¹⁰ Runoff moves through the swale to its low point where the project then includes installation of new advanced engineered filtration unit (a "Continuous Deflection Separator" (CDS) filter unit). After flowing through the CDS unit, water is allowed to enter the Lagoon through the existing discharge pipe. So as not to

¹⁰ That is, as stormwater runoff flows through the swale, pollutants are filtered, absorbed, and "taken up" by the swale vegetation and soils. Such swales are particularly effective at removing sediment and particulate debris, as well as petroleum hydrocarbons, nutrients, and heavy metals.



overwhelm the swale during periods of heavy runoff, and to ensure parking lot areas receive the most swale treatment, “cleaner” runoff from the roof is directed via subsurface drain pipe nearer to the CDS drain unit than runoff from the parking lot.

The water quality treatment train system developed for this project incorporates many of the BMP concepts that the Commission generally encourages. The runoff associated with the project will be effectively filtered and treated. The system approved by the County has been reviewed and found acceptable by the Commission’s water quality staff. The Applicant has also committed to removing the chemically treated railroad ties on the site (historically used to define parking areas), and thus any existing leaching of chemicals from these ties during storm events will be eliminated, further enhancing water quality. The pervious pavement suggested by the Appellants could incrementally increase the water quality benefit above that approved by the County, but it isn’t clear that it would lead to a substantial increased benefit in light of the water quality treatment train incorporated into the project. Moreover, the approved project is already consistent with the cited LCP policies in this regard.

Open Space

The Appellants also cite several open space policies of the LUP (see above), but do not make specific appeal contentions in reference to them (see exhibits D and E). A portion of the site that is on the Lagoon side of the fence is designated “Urban Open Space” in the LUP pursuant to cited LUP Objective 5.11 and Policy 5.11.1.¹¹ No development is proposed in this area, and it will remain urban open space. The project is not in conflict with these cited policies.

The project does not raise a substantial issue with the cited policies.

C. Views

1. LUP Chapter 5 (“Conservation and Open Space”) Policies Cited by Appellants

LUP Objective 5.10.a Protection of Visual Resources. To identify, protect, and restore the aesthetic values of visual resources.

LUP Objective 5.10.b New Development in Visual Resource Areas. To ensure that new development is appropriately designed and constructed to minimal to no adverse impact upon identified visual resources.

LUP Policy 5.10.3 Protection of Public Vistas. Protect significant public vistas...from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations,... inappropriate landscaping and structure design.

LUP Policy 5.10.6 Preserving Ocean Vistas. Where public ocean vistas exist, require that these

¹¹ The portion of the site containing the Lagoon proper is also designated “Lake, Reservoir, Lagoon.”



vistas be retained to the maximum extent possible as a condition of approval for any new development.

LUP Policy 5.10.8 Significant Tree Removal Ordinance. *Maintain the standards in the County's existing ordinance which regulates the removal of significant trees and other major vegetation in the Coastal Zone, and provide appropriate protection for significant trees and other major vegetation in areas of the County located within the Urban Services Line.*

2. Consistency Analysis

The Appellants' contentions in this issue area are generally that the project will block public and private views, and that it results in the removal of a significant tree.

The project includes additional structure massing, including adding a second story element that increases the height from 17 feet to 28 feet maximum where there is a second story (see elevations and photo-simulation in exhibit B). The project would lead to some additional blockage of Lagoon views (in the foreground) and peek-a-boo views of the ocean (further away) as seen from Portola Drive (and inland residences), and would introduce additional structures into the view of the Lagoon as seen from Portola (and inland) as well as East Cliff Drive and the beach.

Due to its inland location (again, see exhibit A), the viewshed involved is primarily an inland Lagoon viewshed, and not the immediate shoreline beach viewshed.¹²

Additional public view blockage as seen from Portola Drive will be minimal and insignificant. This is due to the fact that the existing Library building already blocks the view from Portola (and has for some time), and the additional building element extends only slightly towards the east into a view corridor that is already blocked by substantial existing vegetation and the existing eucalyptus grove.¹³ The only public ocean view across the library site is provided from westbound Portola Drive as one passes the Library building – this view would be unaffected by the project. There will be incremental additional blockage of private residential views (inland of Portola Drive) due to the extended building and due to the second story elements.¹⁴ However, the LCP does not protect such private views, and the impact of such view blockage on the general public is essentially zero. Moreover, the inland residences are located up slope of the library at a higher elevation, and these residential units themselves are 2 and 3 stories

¹² That is not to say that the site is not visible from the beach, because there are areas along the beach where one could see the site. Rather, the site is not prominent in the beach viewshed because it is located well inland of the beach (by about a quarter of a mile) and there are intervening landforms (on either side of East Cliff Drive) that constrict such view corridors.

¹³ The existing building frontage along Portola is roughly 135 feet and the new building would have about 55 additional feet of frontage along Portola.

¹⁴ It is noted that the Applicant has not sought to develop the structure to the maximum 35 foot height allowed in the subject C-1 zone district. Rather, the maximum height of the structure is 28 feet (at the second story element) with the majority of it less than that. In other words, the structure is lower than the zoning code allows it to be. This is atypical in terms of most development approved by the County in Live Oak where the norm is private development that is built to the max zoning standards as opposed to responding to other constraints and design criteria. The lower height in this case clearly responds to the viewshed and natural environment aesthetic, and is appropriate in this regard – particularly for a public project.



high, so additional private view blockage would be relatively small, and much of this against the backdrop of the existing eucalyptus grove and the far vegetated side of the lagoon over the top of the existing library building elevation (and not of lagoon or white-water).

The more important issue raised by the Appellants is the degree to which the changed development at this location impacts the existing Lagoon viewshed as seen from public roads (East Cliff and Portola Drives) and from the beach. In this evaluation it is important to note that the project site is within an urban context, with large residential structures ringing the Lagoon and located directly inland of the site opposite Portola Drive. To the west is the KSCO radio station and its large, tall transmission towers that extend out into the lagoon proper.

The additional massing and formalized site design will incrementally contribute a more urban quality into the existing Lagoon viewshed aesthetic. However, the generally low-slung architecture, along with the site landscaping, the retained eucalyptus grove, and the Lagoon restoration, will help to soften this impact. The design is coastal craftsman in feel, and includes a number of varied offsets and projections, and a second story setback from the first, that together help to reduce the perception of mass (see elevations and photo-simulations in exhibit B). Overall, the project presents an attractive design that will blend with the existing character of the site and the surrounding built and natural environment.

The Appellants contend that one significant eucalyptus tree will be removed, and indicate that this is inconsistent with the LCP. However, the LCP allows for this and the County made the requisite findings (see exhibit C). The removal of the one significant tree on the fringe of the larger eucalyptus grove, and located adjacent to Portola Drive, should have an insignificant impact on the public viewshed.

The Appellants also contend that the exemption for front yard setback reduces the space for landscaping. The exemption cited by the Appellants refers to the variance that the County granted to allow the front yard (i.e., Portola Drive) to be reduced from 20 feet to 5 feet for a portion of the building. The portion to which the variance applies is located in the footprint of the existing building. In other words, the existing lesser setback for that portion of the structure will be maintained. Also, the setback is measured from the right-of-way, and not from the street's curb and gutter. The improved curb and gutter at this location is located about 25 feet inland of the structure's edge. This intervening area is landscaped, and the existing landscaping would be augmented with the project. The variance allowed for a greater setback from the Lagoon (on the opposite side of the building), and there is little evidence to indicate that it resulted in inadequate landscaping as the project includes substantial landscaping as well as wetland plant restoration.

Finally, as also described in the previous section, the Appellants also cite several open space policies of the LUP (previously cited), but do not make specific appeal contentions in reference to them (see exhibits D and E). The portion of the site that is on the Lagoon side of the fence is designated Urban Open Space in the LUP pursuant to cited LUP Objective 5.11 and Policy 5.11.1.¹⁵ No development is proposed in this area, and it will remain urban open space. The project is not in conflict with these cited

¹⁵ Again, the portion of the site containing the Lagoon proper is also designated "Lake, Reservoir, Lagoon."



policies.

The project does not raise a substantial issue with the cited policies.

D. Recreation

1. LUP Chapter 7 ("Parks, Recreation, and Public Facilities") Policies Cited by Appellants

LUP Objective 7.1a Parks and Recreation Opportunities. To provide a full range of public and private opportunities for the access to, and enjoyment of, park, recreation, and scenic areas, including the use of active recreation areas and passive natural open spaces by all ages, income groups and people with disabilities with the primary emphasis on needed recreation facilities and programs for the citizens of Santa Cruz County.

LUP Policy 7.1.1 Existing Park, Recreation and Open Space Designation (O-R). Designate on the General Plan and Local Coastal Program Land Uses and Facilities Maps those areas existing as, or suitable for, Parks, Recreation and Open Space uses.

LUP Policy 7.1.3 Parks, Recreation and Open Space Uses. Allow low intensity uses which are compatible with the scenic values and natural setting of the county for open space lands which are not developable; and allow commercial recreation, County, State and Federal parks, preserves, and biotic research stations, local parks and passive open space uses for park lands which are developable.

LUP Objective 7.2 Neighborhood Parks. To provide neighborhood parks, at a standard of 3 net usable acres per 1000 population, consisting of conveniently located, easily accessible parks serving local residential neighborhoods in the urban portion of the County.

LUP Policy 7.5.1 Regional Park Siting and Standards. Select park sites based on the unique resource opportunity and the suitability of the environmental characteristics for recreational use, rather than their relationship to population centers or acreage standards based on projected population. Typical regional parks serve the entire County and are in the range of 50-500 acres, but larger or smaller sites based on the specific recreational opportunity should be considered.

LUP Policy 7.7.2 Recreational Boating. Encourage increased recreational boating opportunities for County residents by cooperating with the Port District and the cities of Capitola and Santa Cruz to provide dry storage facilities for small boats.

LUP Policy 7.7.22 Access to Environmentally Sensitive Habitats. Obtain controlled public access to environmentally sensitive habitats through grants, dedications of easements or other means, including as a condition of new development approval, subject to policy 7.6.2. Open the access only for education or nature study purposes, and only when improvements and



management are adequate to protect the resources.

2. Consistency Analysis

The Appellants contentions in this issue area are generally that a library use precludes the use of the site for low-intensity recreational use and wetland interpretation.¹⁶

The site is currently occupied by a Library, the only Library in Live Oak. As such, the site is already occupied. In other words, this is not a vacant site for which an initial use determination can be, or must be, made. In this narrow sense, the Appellants contentions do not have merit.

That said, considering the Appellants contentions in a broader LCP sense, the project does provide some low-intensity recreational use and wetland interpretation. For example, the project retains the existing public footpath along the Lagoon edge, and incorporates a viewing area with interpretive panels into it. The Library itself is also one large interpretive facility inasmuch as it provides an opportunity to enhance public awareness of the Lagoon and similar coastal resources by bringing the public to it in an attractive setting with amenities and interpretive information. Many of these folks are either persons who might not otherwise experience such wetland interpretation, and/or are younger children to whom such an experience can help form their appreciation and continued support for protecting such resources. The facility is a public facility that would be open and available to the public.

The site is not designated in the LUP as “Existing Parks and Recreation” as indicated by the Appellants. Rather, the developed portion is designated “Neighborhood Commercial,” and the remainder is a combination of “Urban Open Space” and “Lake, Reservoir, Lagoon.” There is some disconnect between LUP Policy 7.1.1 and the LUP’s land use designations because there isn’t an “Existing Park, Recreation and Open Space” designation. Rather, there are separate open space and parks designations. In any case, no development (other than restoration) is proposed in that portion of the site designated “Urban Open Space” and “Lake, Reservoir, Lagoon” (i.e., the only portion of the site to which it might be inferred that the Policy 7.1.1 “Existing Park, Recreation and Open Space” designation applies).

The project does not raise a substantial issue with the cited policies.

E. Other

The issues raised by the Appellants have been detailed in the preceding findings. Where explicit reference was not made to arguments stated within the Appellants’ appeal documents, that is because the findings encompassed those issues and/or other appeal reasons that were explicitly identified accounted for them. In any case, the preceding findings address all of the appeal contentions with the exception the general theme associated with the appeals that there are less environmentally damaging feasible locations for a library that should be pursued instead of the subject site. As has been detailed in the preceding findings, the project does not raise the type of significant LCP impact issues that would require consideration of alternative sites, and there is nothing in the LCP that would otherwise require

¹⁶ See also “Land Use” section preceding.



such an exercise in the absence of such significant impacts. It is noted in any case that this site is not an undeveloped, undisturbed site on which development is being proposed for the first time. Rather, there is already a library facility at this location and the site has been developed for urban uses for many years. In addition, if an alternative site were pursued, there is no guarantee that this site wouldn't revert to a different type of use that could have worse impacts on the environment and/or significantly less public benefits.

The project does not raise a substantial issue in this regard.

F. Substantial Issue Conclusion

Although the Appellants raise some relevant issues regarding Lagoon habitat and viewshed protection, these issues do not rise to the level of a substantial issue in terms of this project's conformance with the certified LCP. The project is an attractive public project that strikes an appropriate balance between its development intensity and its location next to a sensitive habitat and within an urban coastal viewshed. The project includes substantial mitigating elements, including the water quality filtration system, the building design elements, significant landscaping, continued trail access with new interpretive information, and the Lagoon restoration. Not insignificantly, the project also provides an opportunity to enhance public awareness of the Lagoon and similar coastal resources by bringing the public to it in an attractive setting with amenities and interpretive information. Many of these folks are either persons who might not otherwise experience such wetland interpretation, and/or are younger children to whom such an experience can help form their appreciation and continued support for protecting such resources.

The Commission finds that no substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP and declines to take jurisdiction over the coastal development permit for the project.

